



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary
AFBCMR 98-00361

JUL 27 1998

MEMORANDUM FOR THE CHIEF OF STAFF

Under the authority of Section 1552, Title 10, United States Code, Air Force Instruction 36-2603, and having assured compliance with the provisions of the above regulation, the decision of the Air Force Board for Correction of Military Records is announced, and it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] [REDACTED] be corrected to show that on 13 May 1987, he elected to change his Survivor Benefit Plan (SBP) coverage from "spouse coverage" to "former spouse coverage," naming [REDACTED] eligible former spouse beneficiary, based on full retired pay.

A handwritten signature in cursive script that reads "Donna Pittenger".

DONNA PITTENGER
Chief Examiner
Air Force Board for Correction
of Military Records



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MEMORANDUM OF CONSIDERATION OF APPLICATION BEFORE THE AFBCMR

SUBJECT: [REDACTED]

Having carefully reviewed this application, we agree with the recommendation of the Air Force and adopt the rationale expressed as the basis for our decision that the applicant has been the victim of either an error or an injustice. Therefore, under the authority delegated in AFI 36-2603, the applicant's records will be corrected as set forth in the accompanying Memorandum for the Chief of Staff signed by the Executive Director of the Board or his designee.

A handwritten signature in black ink, appearing to read "James I. [unclear]".

Panel Chair

Attachment:
Ltr, AFPC/DPPTR, dtd 9 Jun 98



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

19 JUN 1998

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPTR
550 C Street West Ste 11
Randolph AFB TX 78150-4713

SUBJECT: Application for Correction of Military Records

Reference: [REDACTED]

Requested Correction: The applicant is requesting corrective action to show he filed a timely election to voluntarily change his Survivor Benefit Plan (SBP) coverage from spouse to former spouse based on full retired pay following divorce.

Basis for Request: The applicant claims he sent a copy of the divorce decree to the finance center and requested his former spouse was to continue as the designated beneficiary of the SBP.

Background: A spouse beneficiary loses eligibility to receive an annuity following divorce. However, the law provides two mechanisms for changing spouse coverage to former spouse coverage. Both must be exercised within the first year following divorce: the retiree may file an election change, or the former spouse may request the retiree be deemed to have made such a change on his or her behalf. In the latter case, the former spouse must provide legal documentation that the member agreed, or that the court ordered the member, to establish former spouse coverage. If neither the member nor the former spouse requests the election change during the one-year eligibility period, former spouse coverage may not be established thereafter. Although SBP premiums may continue to be deducted from the member's retired pay following divorce, the former spouse is not eligible to receive annuity payments in the event of the member's death.

Facts: The parties married on 4 Dec 45. The member retired for disability effective 7 Nov 67 and elected full spouse coverage during the initial SBP open enrollment period authorized by Public Law (PL) 92-425 (21 Sep 72 - 20 Mar 74). The parties divorced on 12 May 87, but the court order was silent on the issue of SBP. The applicant remarried on 23 May 87, but there is no evidence he requested SBP coverage be established on his new wife's behalf. SBP premiums continued to be deducted from the applicant's retired pay and his former spouse was erroneously listed as the eligible spouse beneficiary for over ten years following their divorce. In Dec 97, Defense Finance and Accounting Service-Cleveland Center (DFAS-CL) suspended spouse coverage and issued the member a premium refund (approximately \$8,700) retroactive to the date of divorce, but subject to the six-year statute of limitations.

Discussion: Although the member made no election change during the required one-year time limit following divorce, he did not request DFAS terminate his former spouse's coverage, premiums continued to be deducted from his pay, and he took immediate action to

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establish former spouse coverage after DFAS-CL advised him it was not in effect, all indicative of his intent to maintain his former spouse as the eligible SBP beneficiary. The member agrees to repay any premium debt.

Recommendation: Although there is no evidence of Air Force error, we recommend that the member's record be corrected to reflect that on 13 May 87 he elected to change SBP spouse coverage to former spouse coverage based on full retired pay, naming [REDACTED] as the eligible former spouse beneficiary. Approval should be contingent upon recoupment of all applicable premiums.



PAT PEEK, DAFC
Chief, Retiree Services Branch
Directorate of Pers Program Management

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